IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 20TH FEBRUARY 2007 /1ST PHALGUNA 1928

Crl.MC.No. 444 of 2006()

CC.269/2003 of JUDL.MAGISTRATE OF FIRST CLASS-I, THAMARASSERY

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PETITIONER: ACCUSED NO.3.

K.C.LATHIFF, S/O.MOIDU,
POYIL HOUSE, RAROTH AMSOM, CHEMBRA DESOM.

BY ADV. SRI.T.G.RAJENDRAN

RESPONDENTS: COMPLAINANT AND STATE.

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1. THE SUB INSPECTOR OF POLICE,
THAMARASSERY POLICE STATION.

2. THE STATE REP. BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 20/02/2007, THE COURT ON 20/01/2006 PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.444 of 2006

Dated this the 20th day of February, 2007

ORDER

The petitioner is the 3rd accused in a prosecution, inter alia, under the provisions of the Essential Commodities Act. The 1st accused was found guilty and convicted. The 2nd accused was not available for trial and the petitioner/the 3rd accused was found not guilty and convicted. There is a vehicle involved, of which the petitioner is the owner, which was allegedly used for the purpose of commission of the offence. By Annexure-I judgment, under which the 1st accused was convicted and the 3rd accused was acquitted, there was a direction that the jeep concerned shall be forfeited. The petitioner/the 3rd accused was directed to produce the jeep. Thereafter, Annexure-II notice was issued by the learned Magistrate to the petitioner to pay the bond amount. It was at that stage that the petitioner came before this Court. The petitioner raised the contention that Annexure-I judgment had been appealed against.

2. The learned counsel for the petitioner submits that Annexure-I judgment has since been set aside by Annexure-III judgment. The appeal was allowed and the 1st accused has been found not guilty and acquitted. Annexure-I was thus set aside. Annexure-III order is obviously issued on the basis of Annexure-I judgment and the direction contained therein.

3. It is for the petitioner now to appear before the learned Magistrate and explain to the learned Magistrate that Annexure-II order does not deserve to be complied with in view of the later judgment in Annexure-III. The petitioner can make all the relevant representations before the Magistrate. The learned Magistrate shall pass appropriate orders thereafter.

4. I am, in these circumstances, satisfied that this Crl.M.C can be dismissed with the above observations as agreed.

5. In the result, this Crl.M.C is, dismissed subject of course to the above observations.

(R.BASANT, JUDGE)

rtr/-